

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MARGARET K.C. GODWIN and DEPARTMENT OF DEFENSE,  
DEFENSE LOGISTICS AGENCY, TINKER AIR FORCE BASE, Okla.

*Docket No. 96-819; Submitted on the Record;  
Issued February 5, 1998*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant met her burden of proof in establishing that she sustained an emotional condition in the performance of duty.

The Board has reviewed the case record and finds that appellant failed to establish that her emotional condition was caused by employment factors.

Under the Federal Employees' Compensation Act,<sup>1</sup> appellant has the burden of establishing by the weight of the reliable, probative, and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of his federal employment. To establish that he sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; (2) medical evidence establishing that he has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.<sup>2</sup>

Workers' compensation law does not cover each and every injury or illness that is somehow related to employment.<sup>3</sup> There are distinctions regarding the type of work situation giving rise to an emotional condition which will be covered under the Act.

For example, disability resulting from an employee's emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employing establishment is covered.<sup>4</sup> However, an employee's emotional reaction to an administrative or personnel

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<sup>1</sup> 5 U.S.C. §§ 8101-8193 (1974).

<sup>2</sup> *Vaile F. Walders*, 46 ECAB \_\_\_\_ (Docket No. 93-2284, issued June 21, 1995).

<sup>3</sup> *Lillian Cutler*, 28 ECAB 125, 129 (1976).

<sup>4</sup> *Jose L. Gonzalez-Garced*, 46 ECAB \_\_\_\_ (Docket No. 93-1903, issued March 1, 1995).

matter is generally not covered,<sup>5</sup> and disabling conditions caused by an employee's fear of termination or frustration from lack of promotion are not compensable. In such cases, the employee's feelings are self-generated in that they are not related to assigned duties.<sup>6</sup>

Nonetheless, if the evidence demonstrates that the employing establishment erred or acted abusively or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.<sup>7</sup> However, a claimant must support his allegations with probative and reliable evidence; personal perceptions alone are insufficient to establish an employment-related emotional condition.<sup>8</sup>

The initial question is whether appellant has alleged compensable employment factors as contributing to his condition.<sup>9</sup> Thus, part of appellant's burden of proof includes the submission of a detailed description of the specific employment factors or incidents which appellant believes caused or adversely affected the condition for which he claims compensation.<sup>10</sup> If appellant's allegations are not supported by probative and reliable evidence, it is unnecessary to address the medical evidence.<sup>11</sup>

In this case, appellant, then a 43-year-old paralegal specialist, filed a notice of occupational disease on October 20, 1994, claiming that her anxiety and stress resulted from harassment at work. In support of her claim, appellant identified more than 20 incidents involving the attorney for whom she worked, Preston Mitchell, and submitted statements from coworkers and a medical report from Dr. W. J. Choe, a practitioner in internal medicine, who diagnosed anxiety and panic attacks due to stress at work.

On October 4, 1995 the Office of Workers' Compensation Programs denied the claim on the grounds that none of the incidents listed by appellant constituted compensable work factors. The Office noted that appellant had provided no evidence of error or abuse on the part of Mr. Mitchell or the employing establishment.

The Board finds that appellant has identified no compensable work factors that are substantiated by the record and that the employing establishment has neither erred nor acted abusively or unreasonably in the administration of personnel matters.

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<sup>5</sup> *Sharon J. McIntosh*, 47 ECAB \_\_\_\_ (Docket No. 94-1777, issued August 28, 1996).

<sup>6</sup> *Barbara E. Hamm*, 45 ECAB 843, 850 (1994).

<sup>7</sup> *Margreate Lublin*, 44 ECAB 945, 956 (1993).

<sup>8</sup> *Ruthie M. Evans*, 41 ECAB 416, 425 (1990).

<sup>9</sup> *Wanda G. Bailey*, 45 ECAB 835, 838 (1994).

<sup>10</sup> *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993).

<sup>11</sup> *Margaret S. Krzycki*, 43 ECAB 496, 502 (1992).

For example, appellant claimed stress caused by the facts that Mr. Mitchell never offered to pay for the repairs that appellant's husband made to Mr. Mitchell's car<sup>12</sup> and that Mr. Mitchell failed to invite appellant's family over for a meal in appreciation of her husband's work but told her he had invited another person who had loaned him a roto-tiller to his home. The Board has long held that an employee's reaction to incidents occurring outside the workplace are not considered to be in the performance of duty.<sup>13</sup>

Appellant claimed that she was upset because Mr. Mitchell made fun of her religion and tried to goad her and her coworkers into discussions about their Baptist beliefs. The record reveals that both appellant and her supervisor were counseled not to discuss religious matters or beliefs at work. Appellant also claimed stress over Mr. Mitchell's comments regarding the role of bosses, the drinking of tea and coffee, the carrying of a computer during an office move, the removal of a key to the office from appellant's key ring, and the employing establishment's investigation of an ethics violation.<sup>14</sup> Inasmuch as an employee's reactions to remarks and comments about nonemployment matters are not compensable work factors, the Board finds that appellant's self-generated feelings are not related to any assigned duties.<sup>15</sup> Appellant indicated that several administrative matters—a lower rating on her appraisal, Mr. Mitchell's remarks about doing his own typing, his admonition that appellant needed to put aside personal business because he had work for her, his instruction while on travel duty that she clean up "the mess" on her desk, his directive that she use SL instead of CL on her time sheets, his failure to pass on to her information from staff meetings, his inquiry as to her whereabouts, his criticism of her copying some work, and her dispute with Mr. Mitchell about her initials at the bottom of his letters—caused her anxiety and stress.

While administrative and personnel matters are generally related to employment, these matters are functions of the employer and not duties of the employee. Thus, the Board has held that an employee's reactions to administrative actions are not compensable unless the evidence demonstrates error or abuse on the part of the employing establishment in its administrative capacity.<sup>16</sup> Here, appellant has submitted several affidavits from coworkers but none addressed

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<sup>12</sup> Appellant's husband stated on July 6, 1994 that he and his wife had no social relationship with the Mitchells, that he offered to help fix Mr. Mitchell's car, that Mr. Mitchell paid for the parts, and that he declined Mr. Mitchell's offer to pay him for working on the car.

<sup>13</sup> See *Frank A. Catapano*, 46 ECAB \_\_\_\_ (Docket No. 93-1246, issued December 7, 1994) (noting that allegations concerning the undesirable living conditions of appellant's family, the employing establishment's investigation of appellant's wife for caring for the child of a coworker, and purported cheating by coworkers in a course appellant was taking were not sufficiently connected to the duties of appellant's employment to be considered compensable work factors).

<sup>14</sup> The employing establishment investigated the incident regarding Mr. Mitchell's acceptance of the offer from appellant's husband to fix Mr. Mitchell's car.

<sup>15</sup> See *Daniel B. Arroyo*, 48 ECAB \_\_\_\_ (Docket No. 95-62, issued November 22, 1996) (finding that while verbal altercations and a tense relationship with a supervisor may be compensable work factors if proven, appellant failed to support his allegations with probative evidence).

<sup>16</sup> *Sharon J. McIntosh*, 47 ECAB \_\_\_\_ (Docket No. 94-1777, issued August 28, 1996).

the above incidents. Therefore, the Board finds that appellant has failed to show any error or abuse on the part of the employing establishment.<sup>17</sup>

Finally, appellant alleged stress resulting from conversational incidents with Mr. Mitchell involving her relationship with another attorney in the office, her forgetfulness because of medication, her lack of an invitation to a going away party, her take-home pay and checkbook balance, and the employing establishment's investigation of Mr. Mitchell. However, none of these incidents occurred in the performance of duty. Therefore, the Board finds that they are not compensable work factors.

While appellant claimed generally that her stress and anxiety resulted from harassment at work and a hostile environment, she has not alleged that a reaction to specific regular or specially assigned duties, such as typing, filing, or researching caused or aggravated her emotional condition.<sup>18</sup> Therefore, the Board finds that appellant has not established any compensable work factors under the Act and thus need not consider the medical evidence.<sup>19</sup>

Inasmuch as appellant has failed to meet her burden of proof in providing factual evidence identifying employment factors or incidents alleged to have caused or contributed to her emotional condition, the Board finds that the Office properly denied her claim.<sup>20</sup>

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<sup>17</sup> See *Alberta Kinloch-Wright*, 48 ECAB \_\_\_\_ (Docket No. 95-1254, issued April 23, 1997) (finding that appellant's own perceptions of harassment and hostility from her supervisor were neither specific nor independently corroborated and were therefore not compensable under the Act; *Sandra F. Powell*, 45 ECAB 877, 886 (1994) (finding that an employee's mere perception of harassment or discrimination was not compensable); *Chester R. Henderson*, 42 ECAB 352, 359 (1991) (finding that appellant's mere allegation of harassment, without any witness' statement in support, was insufficient to establish that actual harassment had occurred).

<sup>18</sup> See *Merriett J. Kauffman*, 45 ECAB 696, 703 (1994) (finding that appellant failed to allege or establish that specific work tasks or requirements assigned to him gave rise to his emotional condition).

<sup>19</sup> See *Dinna M. Ramirez*, 48 ECAB \_\_\_\_ (Docket No. 94-2062, issued January 17, 1997) (finding that the Board need not consider psychiatric evidence because appellant failed to establish that the employing establishment acted abusively in denying her request for official time).

<sup>20</sup> See *Raul Campbell*, 45 ECAB 869, 877 (1994) (finding that appellant failed to substantiate compensable factors of employment or allegations of error or abuse on the part of the employing establishment).

The October 4, 1995 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.  
February 5, 1998

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member